

**FILED**

**SEP 27 1999**

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
RALEIGH DIVISION

PEGGY B. DEANS, CLERK  
U.S. BANKRUPTCY COURT  
EASTERN DISTRICT OF N.C.

IN RE:

CHAPTER 7

INTERNATIONAL HERITAGE, INC.

CASE NO. 98-02675-5-ATS

Debtor,

**FIRST INTERIM APPLICATION FOR ALLOWANCE OF MERRITT,  
WOOTEN & JANVIER, P.A. SPECIAL COUNSEL ATTORNEY  
FOR TRUSTEE FEES AND EXPENSE REIMBURSEMENT**

The undersigned special counsel attorney for Trustee ("Applicant") applies to the Court pursuant to 11 U.S.C. Section 331 and Bankruptcy Rule 2016 for the entry of an Order approving and allowing interim Attorney for Trustee fees in the amount of \$6,925.50 for the period February 5, 1999 through September 21, 1999 and expense reimbursement in the amount of \$155.05. In support of said Application he respectfully shows the Court the following:

1. Applicant was retained as special counsel to the Trustee in this case pursuant to an Order entered on February 9, 1999.
2. Applicant has rendered valuable services as such in the administration of this estate. The services rendered by Applicant are broadly described as follows:

Applicant, on an emergency basis, investigated and obtained an order prohibiting an individual's attempts to sell the Debtor's customer list over the internet, believed to be a valuable asset of the estate. Applicant has investigated the Debtor's transactions with certain credit card issuers, argued for the turnover of funds, and conducted settlement negotiations. Applicant is investigating numerous causes of action listed as potential assets in the Debtor's schedules.

3. The services rendered are more particularly described on Applicant's invoice, attached hereto as Exhibit "A". Applicant has diligently endeavored to make these entries comply with the guidelines of the Bankruptcy Administrator's office. Specifically, Applicant has removed all time reflecting "secretarial type services", has removed all time reflecting travel time, and has billed in tenth of an hour increments. Applicant has not billed for any telephone calls lasting under five minutes, except to the extent that such calls resulted in the need for other action to be taken which was taken immediately following the call.

4. Applicant has incurred expenses in his representation of the Trustee in the amount of \$155.05 as set out on the attached Exhibit B. Copy expenses are charged at the rate of 15¢ per copy. Facsimile transmissions are charged only if long distance, and then at cost.

5. William P. Janvier has rendered services as follows: 50.10 hours at \$135.00 per hour. William P. Janvier customarily charged \$135.00-\$150.00 per hour during the time period applicable for like services. Applicant believes that the rate of \$135.00 per hour represents low rate given his experience representing Chapter 7 Trustees. William P. Janvier has previously been approved to represent Trustees before this court at a rate of \$135.00 per hour.


6. William P. Janvier is a Board Certified Specialist in Business and Consumer Bankruptcy Law. He graduated with honors from the University of North Carolina School of Law in 1992, where he served as Editor-in-Chief of the North Carolina Journal of International Law & Commercial Regulation. While Mr. Janvier regularly represents debtors and creditors before this Court, a larger part of his practice involves the representation of Chapter 7 Trustees before this Court. Bankruptcy representation constitutes the majority of his practice. William P. Janvier is a principal in the firm of Merritt, Wooten & Janvier, P.A.

7. Rebecca A. Bue has rendered services as follows: 2.7 hours at \$60.00 per hour. Rebecca Bue is a paralegal with the law firm of Merritt, Wooten & Janvier, P.A. Ms. Bue holds a Bachelor's Degree from Southern Methodist University, in Dallas, Texas, and a paralegal certificate from Meredith College in Raleigh, North Carolina. Ms. Bue has been a paralegal at Merritt, Wooten & Janvier, P.A. since September of 1993 and regularly charges for her services at the rate of \$60.00 an hour.

8. The best interests of justice and fairness are served by the allowance of the Application in the full amount of fees and expense reimbursement requested.

WHEREFORE, Applicant respectfully requests the Court for the entry of an Order allowing and approving Interim Attorney for Trustee fees in the full requested amount of \$6,925.50 and expense reimbursement in the amount of \$155.05.

Respectfully submitted, this the 27<sup>th</sup> day of September, 1999.

  
\_\_\_\_\_  
William P. Janvier  
State Bar #21136  
Merritt, Wooten & Janvier, P.A.  
434 Fayetteville Street Mall  
Suite 2010  
Raleigh, NC 27602  
Telephone: 919-834-9160

**MERRITT, WOOTEN & JANVIER, P.A.***Attorneys at Law*

Telephone 919/834-9160

**P.O. Box 3007  
Raleigh, NC 27602-3007**

Tax ID #56-1764890

Harden, Holmes, Trustee  
P. O. Box 19764  
Raleigh, NC 27619-9764Page: 1  
09/30/99  
Billing # 458-14M  
Statement No: 1

International Heritage, Inc.

	Hours
02/05/99	
WPJ Call from Holmes Harden re: employment and need for TRO (.2); review fax from Holmes (.2); review 341 transcript (.8).	1.20
02/06/99	
WPJ Review materials from Trustee and research and draft emergency motion and order.	3.20
02/07/99	
WPJ Internet search re: New World Junction.	1.00
02/08/99	
WPJ Prepare for emergency hearing (1.8); call Trustee re: revisions to Order (.2); prepare for and argue emergency Motion (1.6); revise Order and draft letter to Court (.5).	4.10
RAB Prepare Certificate of Service for Application to Employ Special Counsel; finalize same.	0.30
02/09/99	
WPJ Review Order and call Bank of America (.3).	0.30
02/10/99	
WPJ Review Order approving appointment (.0); review Chittenden Bank's First Set of Interrogatories (.2); call and review e-mail from Nito Alivar (.3); draft memo to file re: same (.1); call Trustee re: same (.1); draft Motion to Modify Order (.3).	1.00
02/11/99	
WPJ Revise Motion to modify order (.4); draft new Order (.2); review fax from Trustee	

Harden, Holmes, Trustee

Page: 2

09/30/99

Billing # 458-14M

Statement No: 1

International Heritage, Inc.

	Hours
(.1); call from New World Junction re: Order (.3).	1.00
RAB Finalize Certificate of Service for emergency order re: IHI; file with Clerk; file Motion to Modify Order of 2/8/99 re: New World Junction and serve.	0.50
02/18/99	
WPJ Prepare for and argue Motion for Permanent Injunction (.8); review fax; call Harold Lichterman at Bank of America re: order (.3); review Chittender Bank's motion to lift stay (.4); review fax from Trustee re: same (.0).	1.50
02/19/99	
WPJ Call Katherine Koonce re: request for list of chargebacks and clear copy of merchant agreement (.2); research chargeback issue (2.2).	2.40
02/22/99	
WPJ Review Order continuing injunction (.1); review fax from Trustee re: Humboldt bank (.3); call Carl Grumer re: same (.2).	0.60
03/01/99	
WPJ Review letter from Chittenden's attorney re: chargebacks (.1); call Kathryn Koonce re: same (.1); draft response to Motion for Relief from Stay (.5).	0.70
03/02/99	
WPJ Revise response to Motion of Chittenden Bank (.9).	0.90
03/03/99	
WPJ Revise and sign response to motion of Chittenden Bank.	0.40
03/04/99	
WPJ Review notice re: Chittenden hearing and call Clerk's office re: conflict (.3); call to and from Kathryn Koonce (.2).	0.50

Harden, Holmes, Trustee

Page: 3

09/30/99

Billing # 458-14M

Statement No: 1

International Heritage, Inc.

	Hours
03/08/99	
WPJ Review letter and pleadings from Brian Mickles re: EBH distributors; call Brian Mickles.	0.30
03/12/99	
RAB Assist William Janvier with Motion for Continuance.	0.50
03/15/99	
RAB Draft Order for Continuance of Hearing.	0.60
03/18/99	
WPJ Review order re: March 31 hearing (.2); call from Brent Wood re: ECS request to review records (.2); memo to file re: same (.1).	0.50
03/23/99	
WPJ Call from Kathryn Koonce re: continuance (.1).	0.10
03/30/99	
WPJ Review and execute Chittenden consent order (.2); call Holmes Harden and Mike Russo re: chargebacks (.2); call with Mr. Harden and Mr. Crumer re: chargebacks (.3); call Mike Russo (.2); review fax from Mr. Harden re: chargebacks (.3).	1.20
03/31/99	
RAB Prepare Amended Certificate of Service; prepare Amended Certificate of Mailing.	0.80
04/01/99	
WPJ Calls to and from Arash at ECS.	0.20
04/06/99	
WPJ Calls from and to June Quasarano (.1); meet with Mike Russo and Trustee re: charge backs - review records (3.5); memo to file re: meeting (.3).	3.90
04/07/99	
WPJ Call from Quasarano re: Chittenden (.7); review chargeback documents from Trustee and research chargeback issues (4.1);	

Harden, Holmes, Trustee

Page: 4

09/30/99

Billing # 458-14M

Statement No: 1

International Heritage, Inc.

	Hours
calls from and to Arash at credit card company re: access to records and account history (.4).	5.20
04/08/99 WPJ Review chargeback documents received from Trustee.	0.70
04/12/99 WPJ Review credit card documents from Trustee.	0.30
04/15/99 WPJ Review chargeback letter from Centura (.1).	0.10
04/22/99 WPJ Call from Marcus Smith of ECS re: access to computer; call Janis Baker re: same.	0.40
04/26/99 WPJ Calls from and to Marcus at E.C.S. and Jenny Johnson re: access to computer system.	0.30
04/27/99 WPJ Draft responses to Chittenden Interrogatories (.7); review fax from and draft letter to Kathryn Koonce (.2).	0.90
04/28/99 WPJ Call Trustee and revise discovery responses (.7).	0.70
04/29/99 WPJ Review Chittenden Merchant Agreement received from Quasarano(.4); research for hearing re: chargebacks (.2).	0.60
04/30/99 WPJ Research for hearing on chargeback issue (5).	0.50
05/03/99 WPJ Call Holmes Harden re: witnesses for hearing (.2); call from Jane Quasarano re: hearing; memo to file re: same (.4);	

Harden, Holmes, Trustee

Page: 5

09/30/99

Billing # 458-14M

Statement No: 1

International Heritage, Inc.

	Hours
calls from and to Quasarano re: settlement (.4).	1.00
05/04/99	
WPJ Calls from and to Holmes Harden and Jane Quasarano re: hearing (.4); research chargeback issue (3.1); prepare exhibits and outline of hearing (1.5).	5.00
05/05/99	
WPJ Prepare for and argue hearing on Chittenden motion (3.2); call Court re: Consent Order (.1).	3.30
05/17/99	
WPJ Review fax from Ms. Quasarano and draft reply (.3); review letter from Trustee re: setoff by German bank; draft letter to Bank (.2).	0.50
05/21/99	
WPJ Call from Quasarano re: consent order (.2); draft new Consent Order (.5).	0.70
05/24/99	
WPJ Review faxes from Quasarano and Harden (.2); revise Chittenden Motion and fax to Trustee (.3).	0.50
05/25/99	
WPJ Revise Consent Order; review fax from Trustee re: same; call Trustee re: same (.3).	0.30
05/26/99	
WPJ Revise Consent Order and fax to Quasorano (.3).	0.30
05/27/99	
WPJ Call from Trustee re: IRS using funds to pay pre-petition tax; review fax and letter from Craig Adams re: same (.3); call Michael Knot at IRS re: same (.2).	0.50
06/03/99	
WPJ Review fax from Quasarano; calls to and from Trustee re: same; call Quasarano re:	

Harden, Holmes, Trustee

Page: 6

09/30/99

Billing # 458-14M

Statement No: 1

International Heritage, Inc.

	Hours	
same (.4); letter to Quasarano (.2).	0.60	
06/10/99		
WPJ Call Trustee and Quasarano re: SEC consent order (.3).	0.30	
06/16/99		
WPJ Call from Trustee re: SEC settlement; fax Trustee language for Order re: Chittenden (.3).	0.30	
06/17/99		
WPJ Review proposed Order from Trustee; call Kathryn Koonce (.3).	0.30	
06/27/99		
WPJ Review fax from Credit Cards.com (.2).	0.20	
07/16/99		
WPJ Calls from and to Kathryn Koonce; review order and fax to Koonce (.5).	0.50	
08/03/99		
WPJ Call from Trustee re: Chittenden's claim on SEC money-call Koonce re: same (.3).	0.30	
08/04/99		
WPJ Call from Trustee; call Koonce and Quasarano re: maximum amount of Chittenden claim on SEC funds (.3).	0.30	
08/05/99		
WPJ Calls to and from Jane Quasarano and Trustee re: information requested by SEC (.4).	0.40	
09/21/99		
WPJ Call Brent Wood re: meeting with VanEtten to discuss possible actions (.1).	0.10	
For Current Services Rendered	52.80	6,925.50

## Recapitulation

<u>Timekeeper</u>	<u>Hours</u>
Rebecca A. Bue	2.70
William P. Janvier	50.10

Harden, Holmes, Trustee

Page: 7

09/30/99

Billing # 458-14M

Statement No: 1

International Heritage, Inc.

02/08/99	Facsimile transmission	1.50
02/08/99	Facsimile transmission	0.75
02/09/99	Facsimile transmission	1.50
02/09/99	Facsimile transmission	0.50
02/09/99	Facsimile transmission	0.50
02/09/99	Facsimile transmission	0.50
02/09/99	Postage Expense	2.53
02/11/99	Facsimile transmission	1.50
02/12/99	Facsimile transmission	1.50
03/03/99	Postage Expense	1.32
03/12/99	Postage Expense	1.32
03/12/99	Photocopy Expense	2.25
03/15/99	Long Distance Telephone Charges	0.68
03/15/99	WestGroup-Westlaw computer research	99.32
03/17/99	Postage Expense	1.32
03/17/99	Photocopy Expense	1.80
03/17/99	Photocopy Expense	0.90
03/26/99	Facsimile transmission	1.00
05/17/99	Long Distance Telephone Charges	0.57
05/18/99	Postage Expense	0.66
05/18/99	Photocopy Expense	0.45
05/18/99	Photocopy Expense	1.20
05/19/99	Postage Expense	0.99
05/26/99	Facsimile transmission	1.00
06/03/99	Postage Expense	0.66
06/03/99	Photocopy Expense	0.90
06/09/99	Postage Expense	0.33
06/09/99	Photocopy Expense	0.45
06/19/99	Westlaw-computer research.	25.11
07/08/99	Long Distance Telephone Charges	0.68
07/27/99	Postage Expense	0.33
07/27/99	Photocopy Expense	0.30
08/13/99	Long Distance Telephone Charges	0.33
09/09/99	Long Distance Telephone Charges	0.40

Total Expenses	155.05
----------------	--------

Total Current Charges	7,080.55
-----------------------	----------

Balance Due	<u>\$7,080.55</u>
-------------	-------------------

PAYMENT TERMS: NET 30 DAYS. 1.5% PER MONTH CHARGED ON  
AMOUNTS OVER 30 DAYS.